



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

September 12, 2011

Mr. Chris Bucher
Federal Highway Administration, Oregon Division
530 Center Street N.E., Suite 100
Salem, Oregon 97301

Ms. Amy Pfeiffer
Oregon Department of Transportation, Region 4
63030 O.B. Riley Road
Bend, Oregon 97701

Re: US 97 Bend North Corridor Project Draft Environmental Impact Statement and Draft Section 4(f) Evaluation (EPA Project Number 08-006-FHW).

Dear Mr. Bucher and Ms. Pfeiffer:

The U.S. Environmental Protection Agency has reviewed the US 97 Bend North Corridor Project Draft Environmental Impact Statement and Draft Section 4(f) Evaluation (DEIS). We are submitting comments in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. Thank you for the opportunity to offer comment.

The Oregon Department of Transportation (ODOT) and Federal Highway Administration (FHWA) propose to re-route an approximate six mile segment of the US 97 corridor within and north of Bend, Oregon to a location east of its current alignment and adjacent to the BNSF railroad tracks and to construct a new interchange in the northern part of the corridor near Bowery Lane. Additional local roads would be constructed as part of the proposed project to provide local access and circulation. The existing US 97 road would become an arterial and extension of Third Street. The project purpose is to reduce traffic congestion, improve traffic flow, and enhance safety. This project did not undergo review by the CETAS group during project development as the project impacts to aquatic resources did not trigger their participation.

There are two build alternatives, Alternatives East DS1 and East DS2, which differ mainly in the location and type of northern interchange. Both alternatives would construct new local roads and road connections north of Grandview Drive, incorporate access management, storm water management and aesthetic treatments.

While we have a number of recommendations and requests for information to include in the Final EIS, we would like to commend FHWA and ODOT for the quality of the Draft EIS. It is generally comprehensive, well written, and directly addresses the pertinent issues. Our concerns, information needs, and recommendations pertain to traffic projections, planning and environmental linkages, air quality, ground water, environmental justice and impacts to vulnerable populations, and ecological

connectivity. Accordingly, we have rated the Draft EIS as EC-2, Environmental Concerns, Insufficient information. An explanation of this rating is enclosed for your use. Our specific comments are provided below.

Traffic Projections and Range of Alternatives

We commend City of Bend and ODOT for conducting traffic counts in 2007 and in 2009 to assess the effect on traffic volumes due to the economic downturn (p. 1-4). These comparisons showed that yearly anticipated growth in traffic volumes had not occurred and that growth was stagnant, but the conclusion in the DEIS is that population and employment are expected to grow over the long-term with associated traffic volume predictions that are unchanged from earlier projections. It is unclear whether the dramatic change in the Bend area growth and traffic (p. 3-92) has been adequately factored into future traffic projections, and whether this would enable consideration of other alternatives and/or design options.

Recommendation:

Provide further explanation regarding traffic projections in the Final EIS. Consider applying reduced traffic projections or high/medium/low estimates that factor in the economic downturn. Disclose the results and evaluate whether or not other alternatives or design options could become viable if traffic projections were lower rather than higher.

We appreciate that ODOT is incorporating Transportation System Management (TSM) features into the proposed project and is coordinating with other agencies to implement Transportation Demand Management (TDM) strategies independent of the proposed action (p. 2-19, 2-20). The provision of several new bicycle and pedestrian facilities are also welcome additions to the project. We note, however, that both action alternatives, DS1 and DS2 would result in substantial detours for bicyclists (1.5 mile detour with DS1; 5.3 miles detour with DS2).

Recommendations:

To increase transportation choices, improve livability, accessibility and sustainability, and provide for special needs residents, continue to work closely with transit and non-motorized entities to provide transit, address project-related detours, and expand non-motorized facilities. If origin/destination studies have been conducted, include the findings in the Final EIS. If not, we suggest that they be conducted to inform efforts to implement TDM in the project area, including but not limited to, provision of public transit and non-motorized facilities. Include more information regarding the current discussions and plans for commuter rail including the areas it would potentially serve.

The DEIS (page 3-10) states that US 97 and US 20 serve as regional freight routes. Because the proposed project is adjacent to the BNSF railway, it would be helpful to include information regarding the extent to which the railroad could potentially serve a greater role in regional freight transport, thereby reducing travel demand for trucks.

Recommendation:

Consider including the above information regarding rail freight transport.

Transportation Planning and Environmental Linkage

Currently the proposed project is not included in the Bend Metropolitan Planning Organization's Metropolitan Transportation Plan, the City's Bend Area General Plan, or Deschutes County's

Comprehensive Plan. The DEIS discusses the need and intent to incorporate the proposed project into these plans, the need for goal exceptions to Oregon's Land Use law, the intent to prepare interchange management plans, and the need for access management as part of the proposed project. The DEIS also discusses implementation of SAFETEA-LU Section 6002 where it refers to the involvement of participating agencies during project development. However, it is unclear to what extent transportation planning, land use planning, and environmental protection and conservation efforts are being integrated. Per the requirements of SAFETEA-LU Section 6001, state and MPO transportation plans must integrate environmental information throughout planning processes to avoid and minimize environmental impacts and foster sustainable outcomes. (We do note the recent formation of a Land Use and Transportation Committee (p. 4-23) to integrate greenhouse gas reduction goals into state transportation planning and land use policies, which we strongly support.)

Recommendation:

In the Final EIS, provide information about how Section 6001 of SAFETEA-LU is being implemented at the State and MPO levels in the Bend area.

Air Quality

The DEIS states (p. 3-174 and 3-175) that neither of the action alternatives are predicted to affect regional vehicle-miles traveled (VMT) even though local VMT is projected to increase (p. 3-174). The EIS should explain why this conclusion is made. We agree that local air quality/pollutant emissions could differ from national projections in terms of fleet mix and turnover, VMT growth rate, and local control measures (p. 3-174). Project level and localized near roadway effects can also differ from regional and national ambient projections. The NEPA analysis should evaluate project-level impacts, particularly where near roadway conditions are likely to affect sensitive receptor locations/populations. Specifically, along with the increases in local VMT, the EIS should disclose the associated emissions increases, and near roadway effects/pollutants anticipated from the proposed project combined with an identification of sensitive receptor locations/populations and any available health data, such as, asthma rates, other respiratory ailments and health conditions, to characterize disproportionate exposures and vulnerabilities.

We appreciate that the DEIS (p. 3-175) identifies Boyd Acres Neighborhood and the Hunnell Neighborhood as areas that would be closer to traffic as a result of the action alternatives. We encourage taking a closer look within the project area to identify sensitive receptor locations that may be affected by elevated emissions due to closer proximity to the proposed project. Consider the three mobile home parks where there are likely to be higher concentrations of low income, minority, elderly, disabled, and children present. Other examples of potential sensitive receptor locations include schools, hospitals, medical facilities, senior centers, daycare facilities, outdoor recreation areas, and parks.

Recommendation:

In the Final EIS, provide the information as described above.

Construction Emissions and Mitigation.

We commend ODOT for including vehicle and equipment idling limitations along with dust control measures. To avoid inhalation of additional pollutants with dust particles, we would encourage the use of water rather than oil or chemicals to control dust. We also encourage the use of additional mitigation measures to reduce diesel emissions and exposure to these air pollutants for construction workers and nearby residents and businesses.

Recommendation:

Consider including and committing to implement an additional suite of construction mitigation measures, such as those from the Clean Construction USA Web site at <http://www.epa.gov/otaq/diesel/construction/>. Measures such as diesel engine retrofit technology in off-road equipment would greatly help to reduce air toxics and diesel particulate emissions. Such technology may include diesel oxidation catalyst/diesel particulate filters, engine upgrades, engine replacements, newer model year equipment, use of biodiesel, or combinations of these strategies.

For your information, policies the EPA uses in its own construction related activities (Superfund) are provided in the links below.

<http://204.47.216.153:9876/r10/infopage/cleanup.nsf/webpage/greener+cleanups>

[http://yosemite.epa.gov/R10/ESTAFF.NSF/0/bee5cf8b41fe1fd18825761c006bb9fb/\\$FILE/ATTBM7LK/clean_and_green_policy%20R10%208%2013%2009.pdf](http://yosemite.epa.gov/R10/ESTAFF.NSF/0/bee5cf8b41fe1fd18825761c006bb9fb/$FILE/ATTBM7LK/clean_and_green_policy%20R10%208%2013%2009.pdf)

For more information about air toxics, please contact Wayne Elson of our Air Program office at (206) 553-1463.

Ground Water

We are concerned that more work may be needed to ensure wellhead protection, particularly for wells located near the three mobile home parks. The DEIS states that coordination regarding wellhead protection will continue with US EPA (p. 3-140), however, we cannot verify that any contact or coordination has occurred. We would be happy to assist in this regard and ask that you contact us regarding wellhead protection needs or any other questions you may have concerning protection of groundwater resources.

Recommendation:

Please contact Martha Lentz, EPA Hydrogeologist, at (206)553-1593 with questions and concerns relating to groundwater protection.

Environmental Justice, Vulnerable Populations

The environmental justice analysis indicates a high concentration of low income, minority, elderly, and disabled residents at the three mobile home parks in the northern portion of the project area. We appreciate that efforts have been made to avoid, minimize, and mitigate impacts (such as displacement, noise wall mitigation, emergency vehicle turnaround), yet the DEIS does not present a convincing case that there are no disproportionate impacts to these vulnerable populations. While non-EJ populations would also experience project impacts and benefits in that vicinity, the DEIS does not address the question of whether or not the same impacts would be experienced more severely by disadvantaged populations. Also, there is no analysis of impacts to children pursuant to Executive Order 13045 on Children's Health and Safety.

Recommendations:

Include more information about what was heard and how the issues raised by the vulnerable populations have been factored into decision making. Consider taking a closer look at impacts

related to air quality and near roadway effects (see Air Quality comments above), increased neighborhood traffic, safety risks, and dust from use of unimproved Bowery Lane and Hunnell Road, out-of-direction travel (3 miles), increased emergency response time, visual and quality of life impacts, and determine whether more attention to these issues is needed in project development.

Ecological Connectivity

We appreciate that the EIS addresses wildlife linkages (p. 3-147 to 3-151) and considers the impacts associated with loss of the Swalley Canal habitat linkage feature. While Oregon Department of Fish and Wildlife (ODFW) places a low value rating on the habitat linkage at Swalley Canal, this should not be interpreted to mean that its loss is undeserving of mitigation. It is the incremental progression of habitat loss and fragmentation that ultimately results in species decline¹. Because Swalley Canal is the only feature in the project area that presently provides habitat linkage, it is important that its function be maintained to provide a safe movement corridor for western grey squirrel and other small mammals.

Recommendation:

In project design, include suitably sized culverts or other crossing structures or design features to replace and preferably enhance the habitat connectivity that would be lost as a result of piping and covering Swalley Canal.

Thank you for the opportunity to participate in the US 97 Bend North Corridor project. If you have questions or would like to discuss these comments, please contact or me at (206) 553-1601 or by electronic mail at reichgott.christine@epa.gov, or contact Elaine Somers of my staff at (206) 553-2966 or by electronic mail at somers.elaine@epa.gov.

Sincerely,



Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosure

¹ Note that the western grey squirrel is listed as Threatened in Washington State and has been considered for potential Federal listing under the Endangered Species Act.

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.